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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/767,627	01/23/2001	Andrew J. Pennella	PC11666ABTC	3483

7590

02/20/2004

Gregg C. Benson
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EXAMINER

FLORES SANCHEZ, OMAR

ART UNIT	PAPER NUMBER
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3724

DATE MAILED: 02/20/2004

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Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary

Application No.

09/767,627

Applicant(s)

PENNELLA ET AL.

Examiner

Omar Flores-Sánchez

Art Unit

3724

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 19 November 2003.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-40 is/are pending in the application.
- 4a) Of the above claim(s) 13 and 16-40 is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 1-12, 14 and 15 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
- ☐ Certified copies of the priority documents have been received.
 - ☐ Certified copies of the priority documents have been received in Application No. _____.
 - ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- 1) ☒ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) ☐ Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)
Paper No(s)/Mail Date _____.
- 4) ☐ Interview Summary (PTO-413)
Paper No(s)/Mail Date. _____.
- 5) ☐ Notice of Informal Patent Application (PTO-152)
- 6) ☐ Other: _____.

DETAILED ACTION

Claim Rejections - 35 USC § 102

1. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

2. Claims 1-9, 11-12 and 14-15 are rejected under 35 U.S.C. 102(b) as being anticipated by Morrison (5,386,750).

Morrison discloses (Fig. 1-10) the invention including a plastic body 14 including a leading edge and a trailing edge, a series of integrally formed guard ribs 21a-f, cutting blades (81-82), cutting edges, a guard bar 32, a series of depressions 19a-f, a cap and a center guard rib 21c.

3. Claims 1-9, 11-12 and 14 are rejected under 35 U.S.C. 102(b) as being anticipated by Lee et al (5,794,343).

Lee discloses (Fig. 1-10) the invention including a plastic body 10 including a leading edge and a trailing edge, a series of integrally formed guard ribs (Fig. 2, the two ends of the cap 18), cutting blades (13-14), cutting edges, a guard bar 30 and a cap 18.



Claim Rejections - 35 USC § 103

4. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

5. Claim 10 is rejected under 35 U.S.C. 103(a) as being unpatentable over Morrison (5,386,750) in view of Althaus (5,447,084).

Morrison discloses (Fig. 1-10) the invention substantially as claimed except for a lubricating strip. However, Althaus teaches the use of a lubricating strip 21 for the purpose of producing a more comfortable shave. It would have been obvious to one having ordinary skill in the art at the time the invention was made to have modified Morrison's cap by providing the lubricating strip as taught by Althaus in order to obtain more comfortable shave.

6. Claim 10 is rejected under 35 U.S.C. 103(a) as being unpatentable over Lee et al. (5,794,343) in view of Althaus (5,447,084).

Lee discloses (Fig. 1-10) the invention substantially as claimed except for a lubricating strip. However, Althaus teaches the use of a lubricating strip 21 for the purpose of producing a more comfortable shave. It would have been obvious to one having ordinary skill in the art at the time the invention was made to have modified Lee's cap by providing the lubricating strip as taught by Althaus in order to obtain more comfortable shave.



Response to Arguments

7. Applicant's arguments with respect to claims 1-12 and 14-15 have been considered but are moot in view of the new ground(s) of rejection.

Conclusion


8. The prior art made of record and not relied upon is considered pertinent to applicant's disclosure. Lewis, O'Gatty, Spanel and Grey are cited to show related device.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Omar Flores-Sánchez whose telephone number is 703-308-0167. The examiner can normally be reached on 8:00-5:00.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Allan Shoap can be reached on 703-308-1082. The fax phone number for the organization where this application or proceeding is assigned is 703-872-9306.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

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February 18, 2004


KENNETH E. PETERSON
PRIMARY EXAMINER